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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/621,092	07/21/2000	Solomon S. Steiner	PDC 116	4836	
7	7590 05/07/2003				
Patrea L. pabst, Esq. Amall Golden & Gregory, LLP 2800 One Atlantic Center			EXAMINER		
			PATEL, MITAL B		
1201 West Pea Atlanta, GA			ART UNIT	PAPER NUMBER	
			3761	17-	
			DATE MAILED: 05/07/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Og681,092 STEINER ET AL.	•	_			R				
## Examiner Mittal B. Pate 3761 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. □ distriction of time may be available under the provisions of 37 CFR 1.100(a). In no event, however, may a reply be timely filed. □ this period to realy is pecified above, the manner of 37 CFR 1.100(a). In no event, however, may a reply be timely filed. □ this pecified to realy is specified above, the manner may calcularly maintenance of the provision of 37 CFR 1.100(a). In an event, however, may a reply be timely filed. □ this pecified for realy is specified above, the manner may be a set to the provision of 37 CFR 1.700(b). ■ The period for realy specified above, the manner manner specified provision of the period of the p			Application No.	Applicant(s)					
Mital B. Patel 3761	Office Action Summary		09/621,092	STEINER ET AL.					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. Extractions of time may be available used the provision of 3 CPR 1.15(6), in no event, however, may a reply be timely field If the period for reply specified above is less than thrily (00) days, a reply whin the statutory minimum of thinty (30) days with considered timely. If the period for reply specified above is less than thrily (00) days, a reply whin the statutory minimum of thinty (30) days with considered timely. If NO period for reply specified above is less than thrily (00) days, a reply whin the statutory minimum of the reply will, by shaller, cause the application to become AdMINIONED (35 tu.3.5. § 133). If NO period for reply specified above is less than thrily (00) days, a reply whin the statutory minimum of the considerable of the communication. Falliase to reply whith in the statutory days will be shallowed to the communication, even if sindly ride, may reduce any extended three thrilling days and will expire \$C\$ (\$) (NOTHS from the mailing date of this communication, even if sindly ride, may reduce any extended three three three shallows, and the considerable of the communication, even if sindly ride, may reduce any extended three t									
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)	Attachment	(s)	_	•					
	2) Notice	of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Inform	* ·					

Application/Control Number: 09/621,092

Art Unit: 3761

DETAILED ACTION

Election/Restrictions

1. This application contains claims 33-36 drawn to an invention nonelected with traverse in Paper No. 8. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Response to Amendment/Arguments

2. Applicant's arguments with respect to claim 41 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 4. Claims 30, 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (US 5632971).
- 5. As to claim 41, Yang teaches a capsule to contain drug for use in an inhaler comprising a keying surface on an outside surface (The Examiner considers the slots 3',7 to be keying surfaces) that is adapted to orient the capsule within the inhaler or identifies the drug to be placed in the capsule.

Application/Control Number: 09/621,092 Page 3

Art Unit: 3761

6. **As to claim 30**, Yang teaches a capsule further including medicament selected from the group consisting of liquid, powder, and gaseous medicaments.

- 7. **As to claim 42**, Yang teaches a capsule wherein the keying surface is found on the outside of a closed end on the capsule.
- 8. **As to claim 43**, Yang teaches a capsule wherein the keying surface is adapted to orient the capsule within the inhaler.
- 9. **As to claim 44**, Yang teaches a capsule wherein the keying surface identifies the drug to be placed in the capsule.
- 10. **As to claim 45**, Yang teaches a capsule comprising a keying surface on the outside of one end which is adapted to orient the capsule within the inhaler and a keying surface on the other end which identifies the drug to be placed in the capsule.

Allowable Subject Matter

11. Claims 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 703-306-5444. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4520 for regular communications and 703-306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

mbp May 2, 2003 WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700